

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>		Hearing Date/Agenda Number P.C. 8-28-02 Item: 3.a.	
		File Number CP02-035	
		Application Type Conditional Use Permit	
		Council District 9	
		Planning Area Cambrian/Pioneer	
		Assessor's Parcel Number(s) 447-32-002	
PROJECT DESCRIPTION			
Completed by: Darren McBain			
Location: Southeast corner of Ross Avenue and Andover Lane			
Gross Acreage: 4.5		Net Acreage: 4.5	
		Net Density: n/a	
Existing Zoning: R-1-8		Existing Use: Private school	
Proposed Zoning: No change		Proposed Use: Religious assembly (no new construction)	
GENERAL PLAN			
		Completed by: DM	
Land Use/Transportation Diagram Designation Public/Quasi-Public		Project Conformance: [X] Yes [] No [] See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING			
		Completed by: DM	
North:	Single-family detached residential	R-1-8 Residence	
East:	Single-family detached residential	R-1-8 Residence	
South:	Commercial/supermarket	CP Commercial Pedestrian	
West:	Single-family detached residential	R-1-8 Residence	
ENVIRONMENTAL STATUS			
		Completed by: DM	
[] Environmental Impact Report [] Negative Declaration circulated on [] Negative Declaration adopted on		[X] Exempt [] Environmental Review Incomplete	
FILE HISTORY			
		Completed by: DM	
Annexation Title: Ross #12		Date: August 28, 1959	
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION			
[x] Approval [] Approval with Conditions [] Denial		Date: _____	Approved by: _____ [X] Action [] Recommendation
OWNER	APPLICANT/DEVELOPER		
Union School District Leigh Avenue San Jose, CA 95124	City Vineyard Church 14613 Bronson Avenue San Jose, CA 95124		

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Darren McBain

Department of Public Works

See attached memo

Other Departments and Agencies

See attached memos

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, City Vineyard Church, is requesting a Conditional Use Permit to allow religious assembly at a former public school site (Ross Elementary School) that is currently being used as a private school. Churches (public assembly) are a conditional use in the residential zoning districts. No new construction is proposed. The proposed church use, with a total congregation of approximately 100 persons, would primarily take place on Sundays from 10:00 AM to noon in an existing multipurpose building on the site. The rest of the week, the existing private school uses on the site would remain unchanged.

The subject property is located at the southeast corner of Ross Avenue and Andover Drive. Nearby land uses include single-family detached residences on its north, east, and west sides, and commercial retail located across Ross Creek to the south. The site is owned by the Union School District, but leased to the operators of a private school (Second Start Learning Disabilities Center). The proposed church will be a subtenant of the existing private school, which holds a long-term lease from the school district through the year 2020.

Project Description

The proposed project consists of the use of an existing school multipurpose room for purposes of religious assembly one day per week. The subject structure is an approximately 6,500-square-foot building, with a central assembly area that is about 3,000 square feet in size. No new construction is proposed, but the proposed project includes upgrades to the existing landscaping and other minor site improvements (see Analysis section, below).

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the requirements of the California Environmental Quality Act (CEQA). CEQA Guidelines include an exemption (section 15301) for the operation of, or minor alterations to, existing facilities involving negligible or no expansion of the existing use. The Director of Planning has determined that the proposed use meets this definition.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public.

ANALYSIS

The focus of this analysis includes the project's conformance to the City's Zoning Ordinance and Church Location Policy, and its compatibility with nearby land uses, which are mostly single-family detached residential. As described in greater detail below, staff believes the proposed church use is

appropriate for this location and will not be a detriment to the neighborhood or other private school uses on the site.

Conformance to the Zoning Ordinance

The proposed church use would take place in an existing building. No new construction is proposed. Seventy-four (74) parking spaces are provided on the site. The Zoning Ordinance's parking standards for churches require one parking space per four seats, or one space per 30 square feet of assembly area. The proposed assembly area, formerly an elementary school's multipurpose room, is approximately 3,000 square feet in size. The square footage-based parking standard would require approximately 100 parking spaces, which exceeds the amount of parking that is available on the site. However, the applicant has indicated that the maximum size of the congregation will only be about 100 persons, which, per the seating-based parking standard, would require a total of only 25 parking spaces. In order to comply with the seating-based parking standard with 74 parking spaces available, the proposed use must accommodate no more than 296 seats at any one time, which is far greater than what the applicant has indicated as their expected maximum congregation size.

This maximum number of seats is based on the church being the only use on the site during its operating hours of 10:00 AM to noon on Sundays. The applicant has indicated that the existing private schools function Monday through Friday only, and that the church would be the only land use on the site during its hours of operation. A condition of approval to this effect has been included in this permit. The maximum occupancy of the building is also regulated by the Fire Department's standards, which may designate a lower maximum number of occupants than what the parking standards would otherwise allow.

Conformance to the Church Location Policy

The proposed use substantially conforms to the guidelines of the Church Location Policy, a copy of which is attached to this report. Guideline #4 of the policy states that at least 15 feet of landscaping should be provided along a proposed church's street frontage. The existing landscaping on Andover Drive meets this guideline. The size of the landscaped area along Ross Avenue in front of the parking lot closest to the proposed church use is approximately 20 feet deep, although it is shown as being smaller on the plans. The planting within the setback area on Ross is substandard and in need of improvement. This area will be upgraded to the satisfaction of the Director of Planning subsequent to approval of this permit (see below).

The setback area directly in front of the other parking lot, toward the south of the site, has no landscaping. However, because of the small size of the proposed congregation, this "extra" parking lot is unlikely to be used by the applicant on anything more than an occasional basis. Based on the small scope of the proposed use, staff has not required the present applicant to make substantial investments in redeveloping this portion of the site with landscaping. The applicant has agreed to add trees to the existing landscaped area on Ross Avenue between the two parking lots.

It should be noted that the parking lot was built legally by the school district, which is not required

to conform to the City's design guidelines, and which still maintains ownership and long-term control of the site. The private school that currently occupies the site, and which will continue to be the primary site occupant, was allowed by right, with no Planning review, under the provisions of the Zoning Ordinance that was in place at the time of its lease (2000). Therefore, because no new construction or substantial change or intensification of the use/facility is proposed, substantial landscaping improvements have not been required on the site.

Compatibility with Nearby Land Uses

The proposed use is compatible with the surrounding neighborhood. The building that will be occupied by the church is adequately separated from the nearby residences by landscaped areas and public streets. Sufficient parking is provided on the site, such that on-street parking in the residential neighborhood should not be affected by the proposed use.

There are several components of the site that do not presently meet the City's design standards and will be upgraded as part of the approval of this proposal. In the interests of completing the fundamental land-use compatibility review process for the proposed church use, staff has agreed to work with the applicant and the property's long-term leaseholder on the details of these items, subsequent to the Planning Commission's review of this proposal. The applicant is required, as a condition of approval of this permit, to submit a Permit Adjustment, revising the site plans to address the following items to the satisfaction of the Director of Planning:

1. Addition of trees and ground cover along Ross Avenue, and new landscaping along the perimeter of the building
2. Removal, replacement, or relocation of the existing trash enclosure on Andover Lane
3. Removal or replacement of the existing chain-link gates at the entrance to the parking lot on Andover Lane
4. Removal of the non-conforming signs that were placed on the site by the private school tenant without benefit of permit

Staff will work with the applicant to identify the most appropriate solutions for these site improvement issues. The applicants have indicated to staff that they are amenable to providing these site improvements.

PUBLIC OUTREACH

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use

Permit and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram
2. The project site is located on a 10.3-gross-acre parcel in the R-1-8 Residence Zoning District.
3. The project site is currently developed with a school facility that is operated as a private school.
4. The proposed project consists of the use of an existing multipurpose building for religious assembly on Sundays from 10:00 AM to noon.
5. Religious assembly is a conditional use in the City's residential zoning districts.
6. Under the provisions of Section 15314 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
7. The proposed project conforms to the setbacks of the R-1-8 Residence Zoning District.
8. The existing property has substandard landscaping adjacent to the street frontages.
9. The proposed building will not be used for special events while the church sanctuary building is being used for public assembly.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the site's designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the site;
or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Except as noted below, development of the site shall conform to approved development plans entitled "The City Vineyard Church," dated June 18, 2002, on file with the Department of Planning Building and Code Enforcement.

2. **Adjustment Required.** Prior to occupancy, the applicant is required, as a condition of approval of this permit, to secure and agree to implement a Permit Adjustment to revise the project to address the following items to the satisfaction of the Director of Planning.
 - a. Addition of trees and ground cover along Ross Avenue, and new landscaping along the perimeter of the building
 - b. Removal, replacement, or relocation of the existing trash enclosure on Andover Lane
 - c. Removal or replacement of the existing chain-link gates at the entrance to the parking lot on Andover Lane
 - d. Removal of the non-conforming signs that were placed on the site by the private school tenant without benefit of permit
3. **Hours of Operation:** Public assembly approved under this permit shall take place on weekends only. Routine operation of the other on-site school or special school functions/events shall not occur simultaneously with Church services.
4. **Building Occupancy:** For purposes of compliance with the Zoning Ordinance's parking standards, the subject use must accommodate no more than 296 seats.
5. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **No New Construction.** No new construction is approved under this permit.
7. **Tree Removals.** No tree removals are approved under this permit. All tree removals on this site are subject to review by the Director of Planning. No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
8. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
9. **Sign Approval.** No new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
10. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
11. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways

to the satisfaction of the Fire Chief.

12. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.